

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

WILLIAM J. MIKESELL)	
Claimant)	
VS.)	
)	
KEIM TS INC.)	
Respondent)	Docket No. 1,050,066
)	
AND)	
)	
LIBERTY MUTUAL INSURANCE CO.)	
Insurance Carrier)	

ORDER

On August 10, 2012, the Kansas Court of Appeals reversed and remanded the Board's November 8, 2011, Order in this case. The Director appointed E.L. Lee Kinch to serve as Appeals Board Member Pro Tem. George H. Pearson, of Topeka, Kansas, appeared for claimant. Jason M. Lloyd, of Overland Park, appeared for respondent and its insurance carrier (respondent). The parties were given until October 22, 2012, to file any brief with the Board. Neither party elected to do so.

The record considered by the Board and the parties' stipulations are listed in the June 22, 2011, Award entered by Administrative Law Judge (ALJ) Brad E. Avery and the November 8, 2011, Order entered by the Board.

The Court of Appeals held that "the Board's decision [of November 8, 2011] is reversed and remanded with directions to reinstate the ALJ's award for permanent partial general disability."¹ Therefore, pursuant to the mandate of the Court of Appeals, the Board hereby reinstates the Award entered by ALJ Avery.

¹ *Mikesell v. Keim TS, Inc.*, No. 107,101, unpublished Court of Appeals opinion filed August 10, 2012.

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Board's Order of November 8, 2011, is modified to reinstate the Award entered by ALJ Avery on June 22, 2011.

Claimant is entitled to 4.00 weeks of temporary total disability compensation at the rate of \$546 per week or \$2,184 followed by 41.5 weeks of permanent partial disability compensation at the rate of \$546 per week or \$22,659 for a 10 percent functional disability followed by 118.28 weeks of permanent partial disability compensation at the rate of \$546 per week or \$64,580.88 for a 38.5 percent work disability, making a total award of \$89,423.88.

As of November 1, 2012, there would be due and owing to the claimant 4 weeks of temporary total disability compensation at the rate of \$546 per week in the sum of \$2,184 plus 131.5 weeks of permanent partial disability compensation at the rate of \$546.00 per week in the sum of \$71,799 for a total due and owing of \$73,983, which is ordered paid in one lump sum less amounts previously paid. Thereafter, the remaining balance in the amount of \$15,440.88 shall be paid at the rate of \$546 per week for 28.28 weeks or until further order of the Director.

IT IS SO ORDERED.

Dated this _____ day of November, 2012.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

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Brad E. Avery, Administrative Law Judge